

WSR 23-23-013
PERMANENT RULES
COUNTY ROAD

ADMINISTRATION BOARD

[Filed November 2, 2023, 11:52 a.m., effective December 3, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapters 136-12, 136-14, and 136-20 WAC to make changes to the standards of good practice. Amending chapters 136-130, 136-161, 136-165, and 136-180 WAC to make changes to the rural arterial program. Amending chapter 136-400 WAC to change outdated program titles.

Citation of Rules Affected by this Order: New WAC 136-161-120; and amending WAC 136-12-045, 136-14-060, 136-20-020, 136-20-030, 136-20-040, 136-130-020, 136-161-050, 136-161-080, 136-165-010, 136-165-020, 136-165-030, 136-180-030, 136-400-050, and 136-400-060.

Statutory Authority for Adoption: RCW 36.78.070.

Adopted under notice filed as WSR 23-19-079 on September 19, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 14, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 14, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 26, 2023.

Jane Wall
Executive Director

OTS-4954.1

AMENDATORY SECTION (Amending WSR 19-04-048, filed 1/29/19, effective 3/1/19)

WAC 136-12-045 Notification of hiring. When final arrangements for the employment of a new county engineer have been made, the county legislative authority or the county executive shall, within five business days, notify the county road administration board in writing and shall include the following information: Name of new county engineer, Washington professional civil engineer registration number, start date, and contact information, including an email address when available. In addition, the notification shall include a copy of the organization chart detailing the responsibilities of the county engineer if there is an adopted change, WAC (~~(136-50-051)~~) 136-50-050(1), and a copy of the appointment resolution, letter of appointment, or copy of

the meeting minutes of the legislative authority recording the appointment.

OTS-4955.1

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-14-060 Inventory records. Each priority programming process will be based, at least in part, on existing road conditions. It is required, therefore, that in each county an adequate road inventory system be maintained. The inventory system shall be updated no later than ~~((May))~~ April 1st of each year to reflect work done and improvements made during the previous year in accordance with requirements of chapter 136-60 WAC.

OTS-4956.1

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

WAC 136-20-020 Inventory. Each county engineer shall have available in his or her office a complete inventory of all National Bridge Inventory (NBI) bridges on the county road system. The inventory shall list the location of each bridge by the state road log number and appropriate milepost, and shall include such other information as the engineer deems necessary. In addition, all data required for the current Washington state bridge inventory ~~((system-(WSBIS-)))~~ database system as maintained by the Washington state department of transportation (WSDOT) shall be submitted to the WSDOT local programs bridge engineer ~~((on appropriate media furnished or otherwise approved by the WSDOT))~~. It is highly recommended that each county engineer maintain a similar inventory of the short span bridges, drainage structures, and large culverts on the county road system.

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

WAC 136-20-030 Inspection. Each county engineer shall be responsible for all ~~((routine and special))~~ NBI inspections of all NBI bridges on the county road system in accordance with the National Bridge Inspection Standards (NBIS) as promulgated and periodically revised by the WSDOT local programs office. The county engineer shall ~~((note the date of all inspections and any changes since the previous inspection on the bridge inspection report and the WSBIS form and submit all such forms to the WSDOT local programs bridge engineer))~~ ensure all inspection data is reported to the current Washington state

bridge inventory system within (~~ninety~~) 90 days of each inspection. It is highly recommended that each county engineer perform routine inspections of the short span bridges, drainage structures, and large culverts on the county road system.

AMENDATORY SECTION (Amending WSR 14-17-035, filed 8/13/14, effective 9/13/14)

WAC 136-20-040 Certification. Prior to April 1st of each calendar year, the WSDOT director of local programs will provide the following to the county road administration board(~~:~~

~~(1) A listing on a county-by-county basis of all county NBI bridges which have not had a regular WSBIS and bridge inspection report submitted within the previous thirty months; and~~

~~(2) A listing on a county-by-county basis of all county NBI bridges which have not had a required special inspection report submitted within six months after the required inspection date; and~~

~~(3))~~ a listing of all counties which are not in compliance with the requirements of the National Bridge Inspection Standards and the status of efforts toward achieving such compliance.

Any county which is not in compliance with the NBIS (~~or has a bridge or bridges on any of the above listings~~) shall be assumed to be (~~not in~~) out of compliance with bridge inspection procedures.

OTS-4957.1

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

WAC 136-130-020 Priorities by project type. The county road administration board has determined that the interests of the counties in the several regions will be best served by encouraging development of distinct project priority rating systems for each region.

There shall be five project types eligible for RATA funding, with each having separate rating systems for project ranking and selection. The five project types include:

(1) Reconstruction - Emphasis on alignment and grade changes on 50 percent or more of the project length, and may include additional travel lanes and right of way costs.

(2) 3R - Resurfacing, restoration, and rehabilitation - Primary focus on extending the service life of existing facility involving less than 50 percent vertical or horizontal changes, and on safety improvements. Right of way costs are eligible for RATA reimbursement as a part of this project type.

(3) 2R - Resurfacing and restoration - Primary focus on restoration of the pavement structure on the existing vertical and horizontal alignment and spot safety improvements. Minor widening costs are allowed as a part of this project type. Right of way costs are not eligible for RATA reimbursement in this project type.

(4) Intersection - 3R or reconstruction work limited to the vicinity of an existing intersection, and may include additional travel lanes and right of way costs.

(5) Bridge and drainage structures - Replacement or major rehabilitation of an existing bridge or other drainage structure, and may include additional travel lanes and right of way costs. The bridge or drainage structure(s) cost must be a minimum of 50 percent of the overall project cost.

(a) All National Bridge Inventory (NBI) listed structures are eligible for replacement or rehabilitation. Rehabilitation is the major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects.

(b) All non-NBI structures are eligible for replacement of the existing structure.

In consultation with the individual regions, the executive director shall approve the various forms and procedures necessary to allocate available RATA funding, consistent with RCW 36.79.080.

These project types shall be available for each region, and no regional sublimits shall apply for project types.

OTS-4958.1

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-161-050 RAP program cycle—Final prospectus. By September 1st of each even-numbered year prior to a funding period, each eligible county shall submit a final prospectus for each project for which it seeks RATA funds. Each final prospectus shall be submitted on forms provided by the county road administration board and shall include a vicinity map, a typical cross-section (existing and proposed), and, if a design deviation is required, an evaluation and determination by the county engineer. If a project is for the improvement of a road which continues into an adjacent county and the project terminus is within (~~one thousand~~) 1,000 feet of the county line, the prospectus shall include a statement signed by the county engineer of the adjacent county certifying that the adjacent county will cooperate with the applicant county to the extent necessary to achieve a mutually acceptable design. All final prospectuses shall indicate that the design of the project shall begin not later than one year from the date of project approval by the county road administration board, and that construction of the project shall begin not later than six years from the date of project approval by the county road administration board. All final prospectuses shall come from the pool of preliminary prospectuses submitted and field reviewed as specified in WAC 136-161-030 and 136-161-040. All counties shall use current cost pricing to estimate project costs. Inflation and contingency rates will be applied by the county road administration board based upon project type.

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

WAC 136-161-080 Limitations on allocations of RATA funds to counties. For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

- (1) PSR: No maximum project RATA contribution; 40(%) percent limit on percentage of the forecasted regional apportionment amount;
- (2) NWR: No maximum project RATA contribution; (~~twenty~~) 20 percent limit on percentage of the forecasted regional apportionment amount;
- (3) NER: No maximum project RATA contribution; (~~maximum RATA contribution to each county for 2R and drainage projects combined is seven hundred fifty thousand dollars; twelve and one-half~~) 12 1/2 percent limit on percentage of the forecasted regional apportionment amount;
- (4) SWR: No maximum project RATA contribution; (~~fifteen~~) 15 percent limit on percentage of the forecasted regional apportionment amount;
- (5) SER: No maximum project RATA contribution; percentage varies by county as follows:

(a) Asotin County	ten percent
(b) Benton County	fourteen percent
(c) Columbia County	eleven percent
(d) Franklin County	thirteen percent
(e) Garfield County	ten percent
(f) Kittitas County	thirteen percent
(g) Klickitat County	fourteen percent
(h) Walla Walla County	fourteen percent
(i) Yakima County	twenty percent

(6) The county limits for all eligible and applying counties in each region will be adjusted to include by equal share the funding limit of any ineligible or nonapplying county.

(7) Projects must have a total estimated cost of (~~two hundred fifty thousand dollars~~) \$250,000 or greater to be eligible for RATA funding.

NEW SECTION

WAC 136-161-120 RAP program advancing RATA funds. (1) Counties may request advancing RATA funds for partially funded projects. Such a request by a county shall demonstrate the ability to proceed with the project ahead of the regular funding schedule, and shall acknowledge that advancing RATA funds will correspondingly reduce the limit of RATA funds that may be allocated to the county in the next project program period.

(2) In considering a request to advance RATA funding, the county road administration board will review the county's justification, the current RATA account balance, expected reimbursements, and the most current transportation revenue forecast.

(3) The executive director shall approve or deny a county's request for advancing RATA funds.

(a) If the request is approved, in whole or in part, the executive director is authorized to execute an amendment to the CRAB/county contract. Upon execution of a contract amendment under this chapter, the executive director will advise board members of the amendment details at the next CRAB board meeting.

(b) If the request is denied, in whole or in part, the county may appeal the executive director's decision at the board's next regularly scheduled board meeting.

OTS-4959.1

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-165-010 Purpose and authority. RCW 36.79.150 provides for increasing the amount of RATA funds allocated to a project. This chapter describes the manner in which counties may request an increase in the amount of RATA funds allocated to a project and the manner in which the county road administration board will respond to such requests. (~~(This chapter will apply only to projects for which RATA funds have been allocated after July 1, 1995.)~~)

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

WAC 136-165-020 Requirements for consideration of RATA fund increases. (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

(a) The construction contract for the work has been awarded; or

(b) If done by county forces, the work has commenced, except for construction engineering.

Requests for increases in excess of (~~(twenty-five)~~) 25 percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits. If current funding sources are not sufficient to cover the costs beyond a (~~(twenty-five)~~) 25 percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the

new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

(c) Required permits, including preproject scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;

(d) Required right of way or other easements, and the time and cost of acquisition;

(e) Availability of qualified contractors to perform the work;

(f) Ownership, type, amount, and time requirements of any required utility relocation;

(g) Historical and projected labor, equipment and material costs; and

(h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

(a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;

(b) Project permit requirements were substantially changed, or new permits were required;

(c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;

(d) Design or other standards applicable to the project were changed; ~~((and/or))~~

(e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds(~~-~~

~~(6) Extraordinary and unforeseeable market-wide fluctuations in standard bid item costs will not be considered a basis for project cost increases by the county road administration board); and/or~~

(f) The lowest responsive bid for construction exceeds the amount of available funding for construction; provided that said bid is determined by the county engineer to be reasonable and the increased cost of the bid can be justified.

AMENDATORY SECTION (Amending WSR 11-05-005, filed 2/3/11, effective 3/6/11)

WAC 136-165-030 County road administration board evaluation, consideration and action. (1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC 136-165-020, the county road administration board will consider the following factors:

(a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC 136-165-020(4);

(b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC 136-165-020(5);

(c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) Whether the request is to pay for an expansion of the project; and

(e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) ~~((If the county road administration board finds that an increase in RATA funds for a previously approved project is justified, some or all of the requested increase may be allocated.))~~ The executive director shall approve or deny a county's request for additional funds.

(a) If the request is approved, in whole or in part, the executive director is authorized to execute an amendment to the CRAB/county contract. Upon execution of a contract amendment under this chapter, the executive director will advise board members of the amendment details at the next CRAB board meeting.

(b) If the request is denied, in whole or in part, the county may appeal the executive director's decision at the board's next regularly scheduled board meeting.

OTS-4960.1

AMENDATORY SECTION (Amending WSR 21-22-083, filed 11/1/21, effective 12/2/21)

WAC 136-180-030 Voucher approval. The county constructing each RAP project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each RAP project for the payment of the RATA share of the project cost. Each voucher shall include total project costs to date, including costs covered by other funding sources. The county shall include with each voucher sufficient documentation to verify costs. Reimbursable costs include all eligible direct costs for the design phase, right-of-way phase in allowed regions, and construction phase. Indirect costs including overhead and support services shared by multiple department's programs or funds such as accounting, payroll, administrative, or human resources salaries and benefits and information technology services for the municipality shall not be (~~included~~) reimbursed. The chair of the county road administration board or his/her designee shall approve such vouchers for payment to the county submitting the voucher.

OTS-4961.1

AMENDATORY SECTION (Amending WSR 08-10-026, filed 4/28/08, effective 5/29/08)

WAC 136-400-050 Project application. Upon a call for projects by the county road administration board, each application by a county for county ferry capital improvement funds shall be made no later than December 31st of the same year.

Project applications shall be submitted on application forms supplied by the county road administration board and shall include the following information:

- (1) Project description and scope;
- (2) Engineering drawings accurately describing the complete project;
- (3) Engineering analysis and cost estimate;
- (4) Evidence the applicant first sought funding through the public works (~~trust fund~~) board assistance account or any other available revenue source; and
- (5) Comprehensive project financial plan including match funding amounts and sources as required by WAC 136-400-065 and amortization and cash flow schedules.

AMENDATORY SECTION (Amending WSR 08-10-026, filed 4/28/08, effective 5/29/08)

WAC 136-400-060 Technical review committee. (1) A technical review committee shall be created to review project applications for county ferry capital improvement funds and present recommendations to the county road administration board for approval, denial or further action on the applications.

(2) The committee shall be composed of the following members or their designees:

(a) Executive director of the county road administration board;

(b) Washington state department of transportation highways and local programs director;

(c) A Washington state department of transportation marine engineer;

(d) One public works department representative from each of the WAC 136-400-010 named counties, each of whom shall serve as an ex officio, nonvoting member of the technical review committee.

(3) The technical review committee shall ensure that the project applications:

(a) Meet the applicable statutes and the standards of this chapter;

(b) Adhere to commonly held engineering practices and cost effectiveness; and

(c) Are complete and meet the project application requirements listed in WAC 136-400-050, including evidence the applicant first sought funding through the public works (~~(trust fund)~~) board assistance account, or other available revenue source.

(4) The technical review committee shall also develop a written report on each project application. The written report will include the following elements:

(a) A project summary;

(b) A committee evaluation; and

(c) A committee recommendation based upon WAC 136-400-065 guidance and including any additional or clarifying terms established by the county road administration board's call for projects.

(5) The technical review committee's written report on each project application shall be submitted to the county road administration board no later than (~~(thirty)~~) 30 days prior to the next regularly scheduled spring meeting after the project application deadline.

(6) Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the county road administration board, who shall serve as chairperson.